IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

ERIC CERVINI, WENDY DAVIS,	§	
DAVID GINS, and TIMOTHY	§	
HOLLOWAY,	§	
	§	
Plaintiffs,	§	
v.	§	
	§	1:21-CV-568-RP
CHASE STAPP, BRANDON	§	
WINKENWERDER, MATTHEW	§	
DAENZER and CITY OF SAN	§	
MARCOS,	§	
	§	
Defendants.	§	

ORDER

Before the court is Plaintiffs' Motion to Compel Defendants and Non-Party City of San Marcos Employees to Produce Documents (Dkt. #110).¹ In addition to having reviewed the Motion, related briefing, and the entire case file, the court held a hearing on the Motion on August 8, 2023. For the reasons stated at the hearing, the court issues the following Order:

Counsel for Plaintiffs represented that Plaintiffs' requests fall into three categories: (1) mobile phone data, including text messages; (2) computer-aided dispatch data; and (3) disciplinary and personnel records.

• Within a reasonable amount of time, the City of San Marcos is **ORDERED** to perform a thorough search of Defendants Stapp's, Winkenwerder's, and Daenzer's city-issued mobile phones for the periods of June 24, 2021 to July 7, 2021 and October 28, 2021 to November 11, 2021. The search to be performed shall be commensurate with the instructions stated at the hearing and shall be the same type of search performed previously

¹ The Motion was referred by United States District Judge Robert Pitman to the undersigned for disposition pursuant to 28 U.S.C. § 636(b)(1)(A), Federal Rule of Civil Procedure 72, and Rule 1(c) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas. Text Order July 5, 2023.

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on those Defendants' city-issued mobile phones for the periods of September 8, 2022 to

September 18, 2020 and October 16, 2020 to November 13, 2020.

Within approximately 30 days, the parties are **ORDERED** to meet and confer to attempt

to resolve issues related to non-party City of San Marcos employees' city-issued and other

mobile phones. The court acknowledges and appreciates that the parties represent that they

are working toward resolution of this and other issues. To that end, reasonable extensions

sought in good faith will be granted generously. Should these issues require judicial

intervention after further negotiations, then the parties SHALL draft detailed and

particularized proposed orders related to their respective positions and submit them to the

court with a joint notice outlining the issues resolved and those outstanding.

Based on the representation that the City of San Marcos has complied or will comply shortly

with Plaintiffs' request for disciplinary records specifically related to the incident, the court declines

to issue an order on that request. For the reasons stated at the hearing, the court **DENIES** Plaintiffs'

request for disciplinary records unrelated to the incident, records of "any other discipline during their

employment" (Dkt. #110 at 16), and for all personnel files.

Based on the City of San Marcos's representation at the hearing, the court finds that the City

of San Marcos has substantially complied with Plaintiffs' request for computer-aided dispatch (911

dispatch) data. Accordingly, the court **DENIES** Plaintiffs' request to compel production of all CAD

data as stated in the motion.

SIGNED August 9, 2023.

MARK LANE

UNITED STATES MAGISTRATE JUDGE

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